

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
MICHELLE WILSON,

Plaintiff,

-against-

NORTHWESTERN MUTUAL INSURANCE  
COMPANY,

Defendant.  
-----X

Civil Action No. 07 CV 2790  
(CLB)

**AFFIRMATION OF NORMAN  
L. TOLLE IN OPPOSITION  
TO PLAINTIFF'S MOTION  
TO AMEND THE SUMMONS  
AND COMPLAINT**

Norman L. Tolle affirms under the penalties of perjury as follows:

1. I am a partner in the law firm of Rivkin Radler LLP, counsel for The Northwestern Mutual Life Insurance Company (incorrectly named as Northwestern Mutual Insurance Company) ("Defendant"), and, as such, am fully familiar with all the facts and circumstances herein.
2. I respectfully submit this Affirmation in opposition to Michelle Wilson's ("Plaintiff") motion for leave to amend the Summons and Complaint.
3. Plaintiff commenced this action in the Supreme Court of the State of New York, Westchester County, by filing a Summons and Complaint on or about March 7, 2007. On or about April 6, 2007, Defendant properly removed this action to the United States District Court for the Southern District of New York based on this Court's original jurisdiction pursuant to Title 28, United States Code Section 1332. On or about April 13, 2007, Defendant filed its motion to dismiss Plaintiff's claim for compensatory damages and attorneys fees, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.
3. Rule 15(a) of the Federal Rules of Civil Procedure provides:

A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served . . . Otherwise a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given.

4. Defendant has not yet filed a responsive pleading in this action. Therefore, Plaintiff may amend her Complaint once as a matter of course. Plaintiff's motion for leave to file an Amend Summons and Complaint is unnecessary.

Dated: Uniondale, New York  
May 8, 2007

A handwritten signature in cursive script that reads "Norman Tolle".

---

NORMAN L. TOLLE (NT 5081)

AFFIDAVIT OF SERVICE

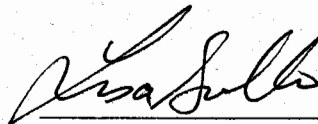
STATE OF NEW YORK                    )  
  ) SS. :  
COUNTY OF NASSAU                 )

I, Lisa Sullo being sworn, say:

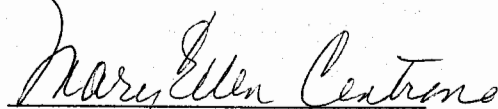
I am not a party to the action, am over 18 years of age and reside in West Babylon, New York.

On May 8, 2007, I served the within **Affirmation of Norman L. Tolle in Opposition to Plaintiff's Motion to Amend the Summons and Complaint** by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

Douglas R. Dollinger, Esq.  
P.O. Box 1111  
96 Broadway  
Newburgh, New York 12550

  
\_\_\_\_\_  
Lisa Sullo

Sworn to before me this  
8<sup>th</sup> day of May, 2007

  
\_\_\_\_\_  
Notary Public

MARY ELLEN CENTRONE  
Notary Public, State of New York  
No. 01084891234  
Qualified in Nassau County  
Commission Expires 4/27/2011

Index No.

CV 2790 (CLB)

Year  
07

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MICHELLE WILSON,

Plaintiff(s),

-against-

NORTHWESTERN MUUTAL INSURANCE COMPANY,

Defendant(s).

AFFIRMATION OF NORMAN L. TOLLE IN OPPOSITION TO PLAINTIFF'S MOTION TO AMEND  
THE SUMMONS AND COMPLAINT

RIVKIN RADLER LLP

Attorneys for

Defendant

926 RECKSON PLAZA  
UNIONDALE, NEW YORK 11556-0926  
(516) 357-3000

FILE# 009135-00026 /

To:

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

PLEASE TAKE NOTICE

☐ that the within is a (certified) true copy of a  
NOTICE OF ENTRY entered in the office of the clerk of the within named Court on 20

☐ that an Order of which the within is a true copy will be presented for settlement to the Hon.  
NOTICE OF SETTLEMENT at one of the judges of the within named Court,

on 20 , at M.

Dated:

RIVKIN RADLER LLP

Attorneys for

926 RECKSON PLAZA  
UNIONDALE, NEW YORK 11556-0926

To: